

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

PASCAL A. MONS,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

8:23CV243

**ORDER GRANTING UNOPPOSED
MOTION TO DISMISS**

Petitioner Pascal Mons filed a petition in this case seeking to quash an IRS summons to TD Ameritrade. [Filing 1](#). This case is before the Court on the Unopposed Motion to Dismiss Petition filed by the United States. [Filing 13](#). The United States represents that the IRS has now withdrawn that summons and argues that because there is no active summons for the Court to quash, the Court should dismiss the petition as moot, [Filing 13 at 1](#).

As another district court in this Circuit has explained,

In *Thompson v. United States*, No. 06–4572 (PAM/JSM), 2007 WL 773713, at *1 (D.Minn. Mar. 12, 2007), the petitioner moved to quash forty administrative summonses served by the IRS, contending the IRS failed to provide him with a reasonable opportunity to provide the IRS with information pursuant to federal law. The IRS then formally withdrew the summonses. *Id.* The court concluded “[b]ecause the IRS formally withdrew the summonses, this action is moot.” *Id.* Other courts around the country have found similarly. See, e.g., *Dame v. United States*, 643 F.Supp. 533, 534 (S.D.N.Y.1986); *Dollar v. United States*, No. C84–978M, 1985 WL 6009, at *1 (W.D.Wash. Mar. 5, 1985); *Kearns v. United States*, 580 F.Supp. 8, 9 (S.D.Ohio 1983).

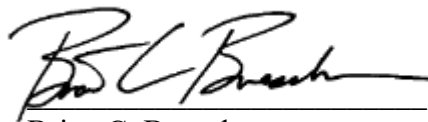
Brinkman v. United States, Inc., ex rel. Internal Revenue Serv., No. 15-MC-67 (JNE/HB), 2015 WL 9920980, at *2 (D. Minn. Dec. 16, 2015), *report and recommendation adopted*, No. 15-MC-67 (JNE/HB), 2016 WL 355071 (D. Minn. Jan. 28, 2016). That Court found no exceptional circumstances such that rendering an opinion where there is no case or controversy would be appropriate. *Id.*

This Court now joins other district courts in this Circuit and elsewhere in the United States by concluding that withdrawal of the IRS summons at issue renders Mons's petition moot. *Id.*; see also *Schaeffler v. United States*, 696 F. App'x 542 (2d Cir. 2017) (affirming the district court's dismissal of the case as moot where the IRS withdrew the summons and filed a motion to dismiss); *Gillings v. U.S. I.R.S.*, 122 F. App'x 360, 361 (9th Cir. 2005) ("Because the IRS withdrew the summons, Gillings no longer has a justiciable claim and the district court correctly dismissed Gillings's petition." (citing *Hacienda Valley Mobile Estates v. City of Morgan Hill*, 353 F.3d 651, 661 (9th Cir. 2003))). The Court also concludes that there are no exceptional circumstances such that rendering an opinion where there is no case or controversy would be appropriate. *Id.* Mons has not attempted to show that there are any such circumstances and instead does not oppose dismissal. Accordingly,

IT IS ORDERED that the Unopposed Motion to Dismiss Petition filed by the United States, [Filing 13](#), is granted, and this case is dismissed as moot.

Dated this 10th day of August, 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read "B. C. Buescher", written over a horizontal line.

Brian C. Buescher
United States District Judge